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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,760	12/17/2003	Joe Harry Branam		5707

7590 09/27/2005
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EXAMINER

AYRES, TIMOTHY MICHAEL

ART UNIT PAPER NUMBER

3637

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/736,760	Applicant(s) BRANAM, JOE HARRY	
	Examiner Timothy M. Ayres	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 17 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

A

DETAILED ACTION

This is a first office action on the merits of application SN 10/736,760.

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Specification

2. The disclosure is objected to because of the following informalities:
- a. On page 2, line 16 of the specification the word "ballet" should be "pallet".
 - b. On page 3, line 5 of the specification the word "based" should be "base"
 - c. On page 5 of the specification, the description for fig. 2 seems to describe fig. 2a better and a description for fig. 2a is needed.
 - d. On page 7, line 21 of the specification "a slot 44" is referred to, though it appears that the reference should be "a slot 46"
 - e. On page 8, line 8, "a flange 58 and 58" " should be " a flange 58 and 58' "
 - f. On page 8, line 10-11, "These legs, 56 and 56' " should be "These flanges, 56 and 56' "

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. In claim 1, lines 10 and 11, claim 12, lines 9 and 10, claim 13, lines 6 and 7. It is unclear what direction along the top that "the length" refers to.

6. Claim 5 recites the limitation "said fastening device" in line 1. There is insufficient antecedent basis for this limitation in the claim.

7. Claim 11 recites the limitation "the recess" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

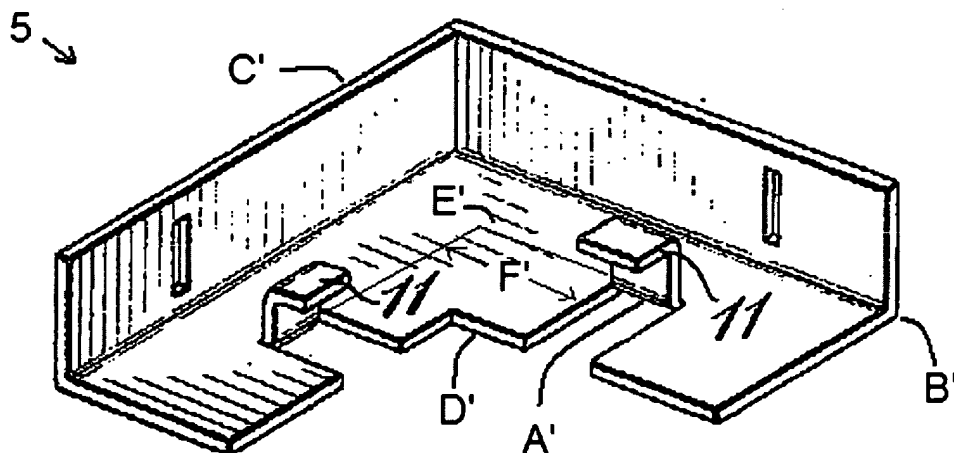
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section

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351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

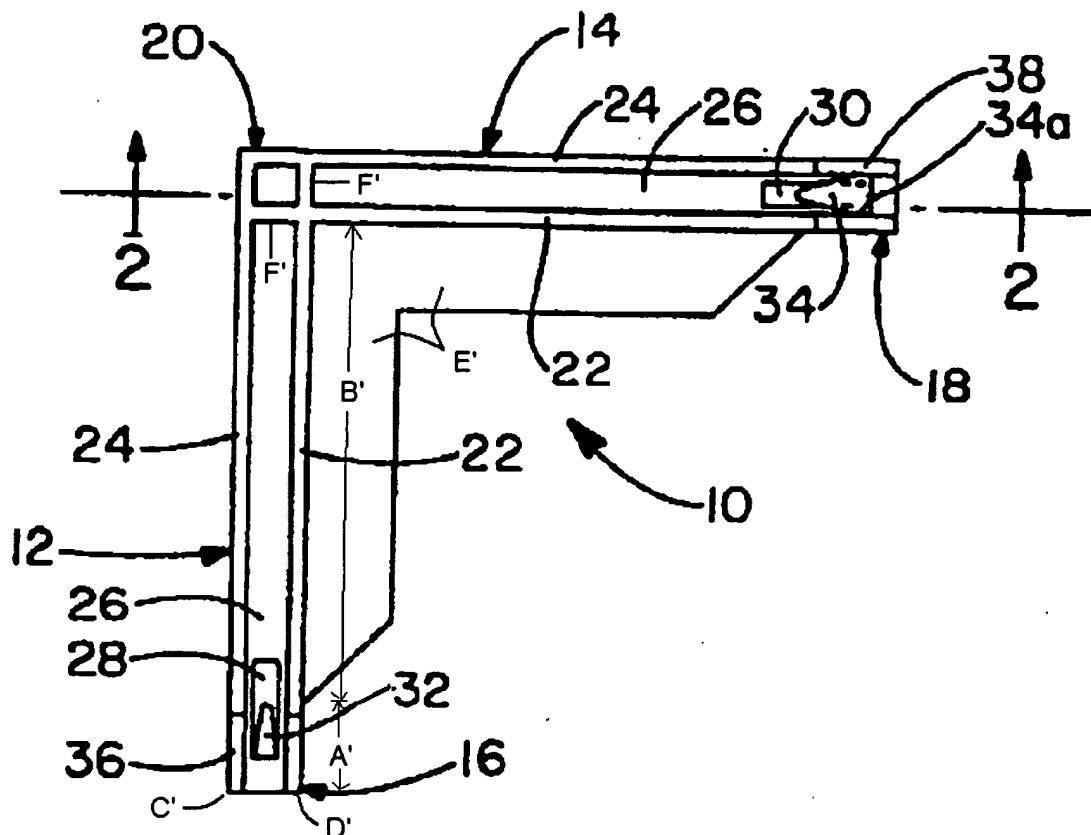
9. Claims 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 1,256,993 to Eidlitz. Eidlitz '993 discloses a frame assembly that includes four track segments (1,2) to form a track assembly. Corner brackets (5) secure the track segments (1,2) together. Each corner bracket (5) has a substantially L-shaped top (E'). The top (E') has a rear edge (B') and a front edge (A'). A flange (C') depends from the rear edge (B') and a flange (11) extends from the front edge (A') where both flanges (C', 11) are substantially perpendicular to the top (E'). An interior of the bracket has an extension (D') of the top (E') such that the length of the top in a direction parallel with (B') and along the extension is greater than a length of the top in the same direction along the part without the extension. Specifically, the distance (F') is greater than the width of the flange (11) at the front edge (A'). The flange (11) is shorter than the flange (C').



Eidlitz '993 Figure 5

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10. Claims 12 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,609,349 to Davidsaver. Davidsaver '349 discloses a frame assembly that includes four track segments (44,42) to form a track assembly. Corner brackets (10) secure the track segments (44,42) together at miters (50). Each corner bracket (10) has a substantially L- shaped top (26) with two legs (12,14). The top (26) has a rear edge (C') and a front edge (D'). A flange (24) depends from the rear edge (C') and a flange (22) extends from the front edge (D') where both flanges (22,24) are substantially perpendicular to the top (26). An interior of the bracket has an extension (E') of the top (26) such that the length of the top in a direction parallel with (C') and along the extension is greater than a length of the top in the same direction along the part without the extension. Specifically the distance with the extension (B') is greater than the distance without the extension (A'). The flange (22) is shorter than the flange (24) since rib (F') is not considered part of flange (22).



Davidsaver '349 Figure 1

Claim Rejections - 35 USC § 103

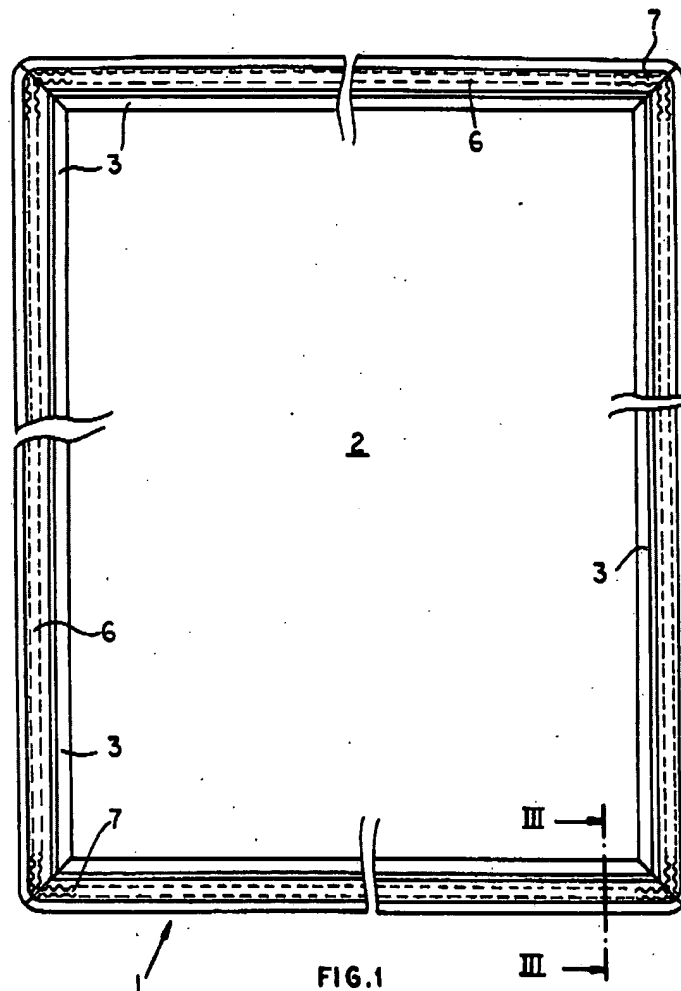
11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-9, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,284,098 to Klapperich in view of U.S. Patent 6,609,349 to Davidsaver. Klapperich '098 discloses a pallet frame assembly (1) that has a base (2).

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The base (2) has edges that fit in recesses (10) on the inner edge (9) of the plurality of track segments (3) that form a track assembly that is square or rectangular in shape (Col. 4, line 21-23). On the top of the track segments (3) is a channel (7) with narrow portions (6) of the channel (7). The corners of the track segments (3) end in miter section (11), which has an insert (12) to help hold the four corners together. Rivets (4) are used to hold the base (2) to the track segments (3).



Klapperich '098 Figure 1

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13. Klapperich '098 does not expressly disclose a bracket with flanges to hold the miters together. Davidsaver '349 discloses a frame assembly that includes four track segments (44,42) to form a track assembly. Corner brackets (10) secure the track segments (44,42) together at miters (50). Each corner bracket (10) has a substantially L-shaped top (26) with two legs (12,14). The top (26) has a rear edge (C') and a front edge (D'). Flanges (24) depend from the rear edge (C') and flanges (22) extend from the front edge (D') where both flanges (22,24) are substantially perpendicular to the top (26). An interior of the bracket has an extension (E') of the top (26) such that the length of the top in a direction parallel with (C') and along the extension is greater than a length of the top in the same direction along the part without the extension. Specifically the distance with the extension (B') is greater than the distance without the extension (A'). The flange (22) is shorter than the flange (24) since ribs (F') is not considered part of flanges (22). Also, an aperture (30) for receiving a fastener (40) is on each leg (12,14). At the time of the invention it would have been obvious for a person of ordinary skill in the art to take the bracket of Davidsaver so that the front flanges are in the channel of the pallet frame of Klapperich and the extension of the bracket top is on the top of the track segment of Klapperich. The motivation is to make the corner stronger since the flanges will push up against the walls of the channel and the miter will resist spreading.

14. Regarding claim 7, it is an obvious matter of design choice to have the extension of the bracket rest on top of a narrowed portion of the channel, since the applicant has not said that having the extension in this location solves any stated problem or is for any

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particular purpose and it appears that the extension would perform equally as well as long as the extension extends over the entire channel no matter which portion it is.

15. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,284,098 to Klapperich in view of U.S. Patent 6,609,349 to Davidsaver as applied to claims 1 and 8 above, and further in view of U.S. Patent 4,438,578 to Logan. Klapperich '098 modified by Davidsaver '349 discloses every element as applied above except a slot dimensioned to receive the rear flanges. Logan '578 teaches a frame assembly with a corner bracket (60). A slot (42) is in each frame section (22) so that the bracket (60) slides into the slot (42) to create a tight miter joint. The bracket of Logan is of the same shape as the rear flanges of the bracket of Klapperich in view of Davidsaver and it would have been obvious for a person of ordinary skill to add a slot to the pallet frame of Klapperich modified by Davidsaver so that the rear flange could create a tight miter joint as taught by Logan.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 4,161,977 to Baslow discloses a frame assembly with a corner bracket that has a flange in a slot. U.S. Patent 1,402,304 to Lord discloses a corner bracket for a frame that has numerous flanges. U.S. Patent 6,308,642 to Branam discloses a pallet assembly with a base that is received in a recess on track segments. U.S. Patent 3,428,002 to McIntire discloses a pallet assembly with a base that is received in a recess along the inner side of the track

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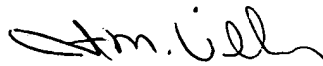
segments. U.S. Patent 6,488,247 to Gonzalez discloses a bracket with flanges that depend from the front edge and the bracket top has an extension portion. U.S. Patent 4,068,967 to Hoodis discloses a corner bracket for a frame that has flanges depending from the front and rear edges. U.S. Patent 3,021,013 to Shivek discloses a corner bracket that has a flange that extends through a slot. U.S. Patent 111,128 to Linscott teaches using a slot to tie a mitered corner together.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Ayres whose telephone number is (571) 272-8299. The examiner can normally be reached on MON-FRI 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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9/21/05



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